



# United States Department of the Interior



## BUREAU OF LAND MANAGEMENT

Winnemucca District Office

Humboldt River Field Office

5100 East Winnemucca Boulevard

Winnemucca, Nevada 89445-2921

Email: [wfoweb@blm.gov](mailto:wfoweb@blm.gov)

<http://www.blm.gov/nv/st/en/fo/wfo.html>

In Reply Refer To:

4110/4160 (NV-10.14)

**CERTIFIED MAIL: (7012 0470 0001 9888 7635) RETURN RECEIPT REQUESTED**

### 2012 Slumbering Fire

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### Livestock Closure Decision

#### INTRODUCTION:

During the summer of 2012 the Slumbering Fire burned approximately 2,444 acres in the Daveytown Allotment, which is within the jurisdiction of the Humboldt River Field Office (HRFO). After an interdisciplinary review it was determined that grazing closure was needed to maintain and/or restore important resources affected by the fire. These resources include such things as vegetation structure, vegetative composition, wildlife habitat, and forage for wildlife and livestock.

#### BACKGROUND

The Slumbering Fire ignited on August 5, 2012 by a lightning strike in the southwest corner of the Daveytown Allotment. Values immediately in danger include habitat for antelope (*Antilocapra americana*).

The area is predominately dominated by two ecological sites, a Loamy 5-8" P.Z. and a Droughty Loam 8-10" P.Z. The potential native vegetative plant community for the Loamy 5-8" P.Z. is dominated by shadscale, bud sagebrush, and Indian ricegrass. The potential composition is approximately 25% grasses, 5% forbs and 70% shrubs. The approximate ground cover is 10-15 percent. The potential native vegetative plant community for the Droughty Loam 8-10" P.Z. is dominated by Wyoming sagebrush, spiny hopsage, Thurber's needlegrass and Indian ricegrass. Sandburg's bluegrass and bottlebrush squirreltail are important on this site. The potential composition is approximately 50% grasses, 5% forbs and 45% shrubs. The approximate ground cover is 15-25 percent.

The Slumbering Fire has increased the potential of wind and water erosion and the spread of noxious weeds and/or invasive and non-native plant species. Damage to vegetation structure, vegetative composition, wildlife habitat, and forage for wildlife and livestock resources could reduce ecological condition and rangeland health.

In order to promote natural recovery of the burned area, rest from livestock grazing is required. No restoration treatments are proposed within the Slumbering Fire; however, the burned area must be rested from livestock grazing until objectives are met.

Therefore, it is my decision to implement the Grazing Closure for the Slumbering Fire:

### **GRAZING CLOSURE DECISION**

This decision is issued effective upon issuance in accordance with 43 CFR 4110.3-3(b) and 43 CFR 4160.3(f). The Bureau of Land Management has made the determination that vegetation, soil, and other resources on the public lands are at immediate risk of erosion or other damage due to wildfire and the continued grazing use poses an imminent likelihood of significant resource damage.

Therefore, it is my final decision to implement the following actions:

1. Close the burned areas associated with the Slumbering Fire to livestock grazing beginning November 2012. The fire will remain closed until vegetation objectives are achieved.

The following is the season of use and AUMs for the allotment.

Allotment	Livestock Type	Season of Use	Active AUMs
Daveytown	Cattle	11/1-2/28	5148

2. No treatments are proposed within the burned area. All developed and/or fenced water sources in and near the burned areas are to remain turned off or inaccessible to livestock to prevent utilization prior to being re-opened to livestock grazing. The use of salt blocks and herding shall be implemented to divert livestock from the burned area until objectives have been met. If it is determined that this method is not effective or is not being properly implemented a larger portion of the allotment will be closed to make use of existing fencing to close the area to livestock grazing which may result in temporary suspension of AUMs.

### **Rationale**

This decision is being issued in Full Force and Effect, in accordance with 4110.3-3(b) and 4160.3(f), in order to provide an opportunity for the burn area to recover and to limit the likelihood of significant damage to natural resources. Rest from livestock grazing is required in

order to successfully re-establish perennial vegetation, restore plant vigor and seed production, minimize active soil erosion and minimize the post fire occurrence of cheatgrass and noxious weed establishment. The establishment of vegetation criteria accompanied by annual monitoring will ensure that perennial vegetation will be fully recovered from the effects of the burn prior to the re-introduction of livestock grazing. The growing season for key perennial grasses in the burned area approximately begins in April and ends in August depending upon the year and the species type.

The actions identified in this decision have received National Environmental Policy Act (NEPA) review in a Determination of NEPA Adequacy, DOI-BLM-NV-W010-2013-0017-DNA (DNA) which can be viewed online at [http://www.blm.gov/nv/st/en/fo/wfo/blm\\_information/nepa0.html](http://www.blm.gov/nv/st/en/fo/wfo/blm_information/nepa0.html). Hardcopies of the DNA are available upon request. On the basis of the information contained in the DNA, it is my determination that implementation of the management actions will not have environmental impacts beyond those already addressed in the NEPA documents identified in the DNA. I have also determined that the actions are in conformance with the Winnemucca District Paradise-Denio Management Framework Plan, 1982.

### **Vegetation Objectives/Criterion for Reintroduction of Livestock**

Perennial vegetative cover must meet or exceed 50% of the low potential perennial ground cover for the appropriate ecological site.

Vegetation monitoring will begin one year post fire and after the growing season. Data collected will indicate trends of the vegetative regrowth, establishment and the potential for these areas to meet the set criteria. If the establishment criteria are not met after the second growing season of the grazing closure, the areas potential to meet the criteria will be evaluated. Some of the factors to be considered in this evaluation will be: vegetation trends as determined by monitoring data, the amount of total precipitation, amount of growing season precipitation, the benefits of additional growing seasons of rest and the amount of natural recovery.

Monitoring will be conducted annually following the growing season. Monitoring sites will be established in 2013. Permittees and the interested public will be notified when monitoring studies will be conducted and invited to participate.

### **DECISION AUTHORITY:**

The authority for this decision is contained in Title 43 of the Code of Federal Regulations (CFR) including, but not limited to the following:

§4110.3-3(b) “When the authorized officer determines that the soil, vegetation, or other resources on the public lands require immediate protection because of conditions such as drought, fire, flood, or insect infestation, or when continued grazing use poses a significant risk of resource damage, after consultation with, or a reasonable attempt to consult with, affected permittees or lessees, the interested public, and the State having lands or responsible for managing resources within the area, the authorized officer shall close allotments or portions of allotments to grazing by any kind of livestock or modify authorized grazing use notwithstanding

the provisions of paragraph (a) of this section. Notices of closure and decisions requiring modification of authorized grazing use may be issued as final decisions effective upon issuance or on the date specified in the decision. Such decisions shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals in accordance with 43 CFR 4.21.”

§4160.3(f): “Notwithstanding the provisions of §4.21(a) of this title pertaining to the period during which a final decision will not be in effect, the authorized officer may provide that the final decision shall be effective upon issuance or on a date established in the decision and shall remain in effect pending the decision on appeal unless a stay is granted by the Office of Hearings and Appeals when the authorized officer has made a determination in accordance with §4110.3-3(b), or 4150.2(d). Nothing in this section shall affect the authority of the Director of the Office of Hearings and Appeals or the Interior Board of Land Appeals to place decisions in full force and effect as provided in §4.21(a)(1) of this title.”

### **APPEAL PROVISIONS:**

In accordance with 43 CFR 4.470, and 4160.4, any person whose interest is adversely affected by a final decision of the authorized officer may appeal the decision for the purpose of a hearing before an administrative law judge. The appeal must be filed within 30 days after receipt of the final decision. In accordance with 43 CFR 4.470, the appeal shall state clearly and concisely the reason(s) why the appellant thinks the final decision of the authorized officer is wrong.

Pursuant to 43 CFR 4.471 and 4160.4, an appellant also may petition for a stay of the final decision pending appeal by filing a petition for stay along with the appeal within 30 days after receipt of the final decision.

The appeal and any petition for stay must be filed at the office of the authorized officer, Edward Seum, Field Manager, Humboldt River Field Office at 5100 E. Winnemucca Blvd Winnemucca, NV 89445. Within 15 days of filing the appeal and any petition for stay, the appellant also must serve a copy of the appeal and any petition for stay on any person named in the decision and listed at the end of the decision, and on the Office of the Solicitor, Regional Solicitor, Pacific Southwest Region, U.S. Department of the Interior, 2800 Cottage Way, Room E-1712, Sacramento, California 95825-1890.

Pursuant to 43 CFR 4.471(c), a petition for stay, if filed, must show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied;
- (2) The likelihood of the appellant’s success on the merits;
- (3) The likelihood of immediate and irreparable harm if the stay is not granted; and,
- (4) Whether the public interest favors granting the stay.

43 CFR 4.471(d) provides that the appellant requesting a stay bears the burden of proof to demonstrate that a stay should be granted.

Any person named in the decision from which an appeal is taken (other than the appellant) who wishes to file a response to the petition for a stay may file with the Hearings Division a motion to intervene in the appeal, together with the response, within 10 days after receiving the petition. Within 15 days after filing the motion to intervene and response, the person must serve copies on the appellant, the Office of the Solicitor and any other person named in the decision (43 CFR 4.472(b)).

At the conclusion of any document that a party must serve, the party or its representative must sign a written statement certifying that service has been or will be made in accordance with the applicable rules and specifying the date and manner of such service (43 CFR 4.422(c)(2)).

Sincerely,

Edward Seum  
Field Manager  
Humboldt River Field Office

Enclosure(s): 8

cc: Interested Public